

§ 112 rejection

The Examiner rejected claims 1-12 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. More particularly, the Examiner asserted that the term "for rotating said pickup chassis" in claim 1 and the term "rotationally supported" in claim 8 is unclear. Applicant respectfully disagrees.

As can be seen in Figure 13, for example, the pickup chassis 45 is rotatable relative to the spindle chassis 44 about a rotary shaft 63, allowing the pickup chassis to tilt with respect to the spindle chassis. See, e.g., the specification at page 17, lines 5-18. Even though the pickup chassis 45 cannot be rotated 360 degrees about the rotary shaft 63, in the example shown in Figure 13, it is still rotatable in a vertical direction within the confines of the spindle chassis 44. Thus, the Examiner's assertion that the pickup chassis is not "rotatable" is erroneous because the tilting function involves rotating the pickup chassis with respect to the spindle chassis about the axis formed by the rotary shaft 63. Withdrawal of the § 112, second paragraph rejection is therefore respectfully requested.

§ 102 rejection

Claims 1, 8-11, and 13 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Takizawa et al. Applicants respectfully traverse this rejection.

The Examiner asserted that Takizawa discloses the claimed control circuit, which drives a stepping motor to

set a tilt angle at a predetermined neutral position, alleging that a tilting control circuit is an inherent feature when an optical head has a tilting means. Applicants respectfully disagree.

The Federal Circuit has clearly stated that inherency cannot be established simply by asserting that a certain thing may result from a given set of circumstances. To support an inherency argument, the disclosure offered by the Examiner must be "sufficient to show that the natural result flowing from the operation as taught would result in the performance of the questioned function" and that the missing claimed element is "necessarily present" in the reference such that it would be recognized by persons of ordinary skill. Finnegan Corp. v. ITC, 51 USPQ2d 1001 (Fed. Cir. 1999), quoting In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981).

7 Contrary to the Examiner's assertion, Takizawa does not disclose or suggest the claimed invention because the claimed control circuit is not necessarily present in Takizawa simply because it has a tilt mechanism. As can be seen in independent claims 1 and 8, the control circuit in the claimed invention avoids requiring an input from a tilt sensor to adjusting a tilt angle. By contrast, Takizawa depends on a tilt detection unit 40 to conduct tilt adjustment (Fig. 1; col. 5, line 67 and col. 6, lines 15-19). In other words, the operation of the Takizawa device depends on a component that claims 1 and 8 explicitly avoid.

As a result, nothing in Takizawa indicates that the claimed control circuitry is necessarily present in its own

device, particularly when Takizawa clearly requests a tilt sensor 40 in its tilt mechanism to operate a motor. Nowhere does Takizawa even contemplate or remotely suggest eliminating the tilt sensor like the claimed invention. Claims 1, 8-11 and 13 are therefore patentable, and withdrawal of the rejection is respectfully requested.

§ 103 rejection

Claims 2-7, 12 and 14-20 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takizawa et al. Applicants respectfully traverse this rejection. Claims 2-7, 12 and 14-20 depend on patentable claim 1 or 8 and are therefore patentable for the reasons explained above. Withdrawal of the rejection is therefore respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Any fees associated with the filing of this paper should be identified in any accompanying transmittal.

However, if any additional fees are required, they may be charged to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

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By 

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MARKED-UP VERSION OF CLAIMS

1. (Once Amended) A disk recording and/or reproducing apparatus comprising:

a spindle chassis for rotationally supporting a turntable on which an optical disk, to/from which information is recorded and/or reproduced, is placed;

a pickup chassis, rotationally supported on said spindle chassis, for movably supporting an optical pickup device for writing and/or reading said information to/from said optical disk and being movable toward and away from the turntable; and

a tilt mechanism for adjusting a tilt angle of said optical pickup device with respect to said optical disk by rotating said pickup chassis with respect to the spindle chassis, said tilt mechanism comprising:

a stepping motor for rotating said pickup chassis with respect to said spindle chassis; and

a control circuit for driving said stepping motor to set the tilt angle at a predetermined neutral position without a tilt sensor input.